BORA LASKIN LAW LIBRARY
3 1761 10084156 8

MATERIALS ON [illegible]

[illegible]

[illegible]
[illegible]
[illegible]

ature
LF
560
14
175
t.2

PREFACE

These materials are prepared for teaching purposes only. They are provided only for the purpose of discussion in class. They are to be used for no other purpose. The aim of these materials is to introduce the student to some general principles relating to the Law of Real and Personal Property. Volume 1 deals with some aspects of the Law of Personal Property. Volumes 2 to 5 are concerned with some aspects of the Law of Real Property and also with Leaseholds.

This material does not purport to be comprehensive or exhaustive. Further, it is compiled on the assumption that other topics, including, for example, land use planning, land finance, land development, real estate transactions, community planning, environmental control, and expropriation are dealt with later in the curriculum. These topics are not included within the scope of this Casebook.

KF
560
M4
1975
pt.2

CONTENTS - PART II

REAL PROPERTY AND LEASEHOLDS

CHAPTER I

THE ANGLO-CANADIAN SYSTEM OF LAND TENURE

Section 1 HISTORICAL BACKGROUND

Cheshire, Modern Real Property 1.1.1
Extract from Simpson, Introduction to History of Land Law 1.1.9

Section 2 LAND LAW AND TENURE IN CANADA

Problem 1.2.1
Laskin, Cases and Notes on Land Law 1.2.2
The Escheats Act 1.2.4
Note 1.2.5
Matter of People (Melrose Ave.) 1.2.6
In Re Lowe's Will Trusts More v. Attorney-General 1.2.8
Re Androws 1.2.11
Note 1.2.14
Problem 1.2.15

Section 3 LAND OWNERSHIP IN ONTARIO

The Aliens' Real Property Act 1.3.1
The Public Lands Act 1.3.1
The Land Transfer Tax Act, 1974 1.3.1

CHAPTER II

POSSESSORY ESTATES AND THE CONCEPT OF SEISIN

Introduction 2.1.1

Section 1 THE DOCTRINE OF ESTATES

Re Shields (Trustee of Estate of Harris Construction Co. Ltd.) and City of Winnipeg 2.1.6

Section 2 SEISIN AND POSSESSION

Bigelow, Introduction to the Law of Real Property 2.2.1

Section 3 SEISIN AND CONVEYANCE

Bigelow, Introduction to the Law of Real Property 2.3.1
Conveyancing and Law of Property Act 2.3.2
Law of Property Act 2.3.2

Section 4 COMMON LAW CONSEQUENCES

Laskin, Cases and Notes on Land Law 2.4.1

Section 5 SUBJECT MATTER OF ESTATE OWNERSHIP

Problem 2.5.1

(a) General

Re Metro Videon Ltd. and Rural Municipality of Fort Garry
Re Greater Winnipeg Cablevision Ltd. and Rural Municipality of Fort Garry 2.5.2

(b) Above the Surface

Kelsen v. Imperial Tobacco Co. (of Great Britain & Ireland) Ltd. 2.5.4
Graham v. K.D. Morris & Sons Pty. Ltd. 2.5.11
Atlantic Aviation Ltd. v. Nova Scotia Light & Power Co. Ltd. 2.5.14

(c) Below the Surface

Edwards et al. v. Sims 2.5.20

(d) A Statutory Illustration

The Public Lands Act 2.5.22

(e) Land Bounded by Water

B.W. Powers & Son Ltd. v. Town of Trenton 2.5.23
Re Walker et al. and Attorney-General for Ontario 2.5.25
Note 2.5.29
Bill 63, 1975 2.5.29

(f) Rights of Riparian Owner

Gauthier et al. v. Naneff et al. 2.5.30
The Environmental Protection Act, 1971 2.5.34
District of North Saanich v. Murray and E.M.P. Estates Ltd. 2.5.36

(g) Surface Waters

Loring v. Brightwood Golf & Country Club Ltd. 2.5.39

(h) Accretion

Re Bulman 2.5.45
Re Chuckry and the Queen in Right of the Province of Manitoba 2.5.49

(i) The Support of Land in its Natural State

Gallant et al. v. F.W. Woolworth Co. Ltd. et al. 2.5.51
Petrofina Canada Ltd. v. Moneta Porcupine Mines Ltd. et al. 2.5.56

Section 6 - FIXTURES

Problem 2.6.1

(a) General Principles

Stack v. T. Eaton Co. 2.6.3
Strain v. Green 2.6.5
H.E. Dibble Ltd. v. Moore West 2.6.8
The Law of Property Act, 1925 (U.K.) 2.6.10
Conveyancing and Law of Property Act 2.6.10

(b) Accession of Chattels

Firestone Tire & Rubber Co. of Canada Ltd. v. Industrial Acceptance Corp. Ltd. 2.6.11
Re Regina and Allison and Glendenning 2.6.13

(c) Fixtures and Conditional Sales

Ellis v. Glover & Hobson, Ltd. 2.6.14
The Conditional Sales Act 2.6.18
The Personal Property Security Act 2.6.19
The Registry Act 2.6.21

Liquid Carbonic Co. Ltd. v. Rountree 2.6.22
Hope v. Manners 2.6.23
Warner v. Foster et al. 2.6.26
Greater Winnipeg Gas Co. v. Petersen 2.6.29
Publishers Holdings Ltd. v. Industrial Development Bank 2.6.35

CHAPTER III

ADVERSE POSSESSION

Section 1 INTRODUCTION

Ballentine, Title by Adverse Possession 3.1.1
Problem 3.1.2
The Limitations Act 3.1.3

Section 2 OPERATION OF THE STATUTE

Hughes v. Griffin 3.2.1
Ocean Harvesters Ltd. v. Quinlan Brothers Ltd. 3.2.5
Brown v. Phillips et al. 3.2.7
Meredith v. Attorney-General of Nova Scotia et al. 3.2.11
Fraser v. Morrison et al. 3.2.13
The Quieting Titles Act 3.2.17
Note 3.2.18
Re Deal and Deal 3.2.20
Note 3.2.23

Section 3 RUNNING OF THE LIMITATION PERIOD

Note 3.3.1
Agency Company Ltd. and Templeton v. Short 3.3.6
Re St. Clair Beach Estates Ltd. v. MacDonald 3.3.9
Note 3.3.14
Walker v. Russell 3.3.16
Chittick v. Gilmore 3.3.28
Attorney-General for Ontario v. Walker 3.3.31
Wallis's Cayton Bay Holiday Camp Ltd. v. Shellmex and B.P. Ltd. 3.3.34
Re Alfrey Investments Ltd. and Shefsky Developments Ltd. 3.3.43'
McGugan and McNeill v. Turner and Turner 3.3.46

Section 4 TACKING - SUCCESSIVE ADVERSE POSSESSIONS

Ballantine, Title by Adverse Possession 3.4.1
Asher and Wife v. Whitlock 3.4.5
Beaudoin v. Brown and Eadie 3.4.8
Fleet and Fleet v. Silverstein and Tenebaum 3.4.11
Mulcahy v. Curramore Pty. Ltd. 3.4.13

Section 5 DISABILITIES

Note 3.5.1
The Limitations Act 3.5.4.
The Interpretation Act 3.5.4
An Act Respecting the Age of Majority and Accountability 3.5.5
Borrows and Wife v. Ellison 3.5.6
An Act for the Limitation of Actions and Suits Relating to Real Property 3.5.6

Section 6 NON-APPLICABILITY TO LAND UNDER THE LAND TITLES ACT

Note .3.6.1
The Land Titles Act 3.6.1

CHAPTER IV

IMPROVEMENTS MADE ON ANOTHER'S LAND

Brand v. Chris Building Pty. Ltd.	4.1.1
Inwards v. Baker	4.1.4
Gay v. Wierzbicki	4.1.7
Tonks et al. v. Township of York and Reid	4.1.10
Nicholson v. St. Denis	4.1.11
Note	4.1.15

CHAPTER V

PROBLEMS FOR REVIEW

Problems	5.1.1

CHAPTER VI

THE ESTATE IN FEE SIMPLE

Problem	6.1.1

Section 1 CHARACTERISTICS

Casner and Leach, Cases and Text on Property	6.1.3
Note	6.1.4
Casner and Leach, Cases and Text on Property	6.1.5
Megarry and Wade, The Law of Real Property	6.1.6
Conveyancing and Law of Property Alt	6.1.7
The Wills Act	6.1.7
Re Ottewell	6.1.8
Problem	6.1.11
Re MacInnis and Townshend	6.1.12

Section 2 ALIENABILITY OF AN ESTATE IN FEE SIMPLE

Laskin, Cases and Notes on Land Law	6.2.1
The Devolution of Estates Act	6.2.3
D'Arundel's Case	6.2.5
Re Brand	6.2.6
Re Nicholls	6.2.8
Administration Act	6.2.11
Wills Act	6.2.11
Report of the Ontario Law Reform Commission on the Proposed Adoption in Ontario of the Uniform Wills Act, 1968	6.2.12

CHAPTER VII

DEFEASIBLE ESTATES IN FEE SIMPLE

Problem	7.1.1

Section 1 GENERAL NATURE

Determinable Fee Simple	7.1.2
Megarry and Wade, The Law of Real Property	7.1.3
Hopper v. Corporation of Liverpool	7.1.4
Re Tilbury West Public School Board and Hastie	7.1.7
Re North Gower Township Public School Board and Todd	7.1.11
Re McKellar	7.1.13

Section 2 VOID CONDITIONS

Megarry and Wade, The Law of Real Property	7.2.1
Re Collier	7.2.3
Re Down	7.2.7
Re Rattray	7.2.12
Re Goodwin	7.2.13
Re McColgan	7.2.16
Re Geen	7.2.22

CHAPTER VIII

THE ESTATE IN FEE TAIL

Problem 8.1.1

Section 1 ABOLITION OF A FEE TAIL

Note 8.1.2
Megarry and Wade, The Law of Real Property 8.1.5
Laskin, Cases and Notes on Land Law 8.1.7
Re McKellar 8.1.8

Section 2 CONSTRUCTION

(a) The Rule In Wild's Case

The Peterborough Real Estate Investment Co. Ltd. v. Patterson 8.2.1
Re Haig 8.2.3
Re Smith and Love 8.2.5
Re Beckstead 8.2.6

(b) "To A, but if he die without issue, to B"

Megarry and Wade, The Law of Real Property 8.2.8
The Wills Act 8.2.9
Travers v. Gustin 8.2.10
Re Brown and Campbell 8.2.12

CHAPTER IX

THE LIFE ESTATE

Section 1 CREATION BY CONVEYANCE

Problem 9.1.1
Conveyancing and Law of Property Act 9.1.2
Devolution of Estates Act 9.1.3
The Wills Act 9.1.3
Re Airey 9.1.4
The Law of Property Act, 1925 9.1.5
Re Virtue 9.1.6
In Re Amos, Carrier v. Price 9.1.7
Pettigrew v. Durley 9.1.8
Unrau v. Barrowman et al. 9.1.11
Laskin, Cases and Notes on Land Law 9.1.13

Section 2 CREATED BY OPERATION OF LAW

Problem 9.2.1
Megarry and Wade, The Law of Real Property 9.2.2
Casner and Leach, Cases and Text on Property 9.2.4
The Married Women's Property Act 9.2.5
The Conveyancing and Law of Property Act 9.2.5
The Devolution of Estates Act 9.2.5
The Married Women's Property Act 9.2.6
The Devolution of Estates Act 9.2.6
The Statute Law Amendment Act 9.2.6
Dorsey v. Dorsey 9.2.7
In Re Lambert's Estate Stanton v. Lambert 9.2.9
Casner and Leach, Cases and Text on Property 9.2.11
The Dower Act 9.2.12
Freedman v. Mason 9.2.16
Freedman v. Mason 9.2.18
Stern v. Sheps et al. 9.2.22
The Registry Act 9.2.25

Section 3 DOWER AND MORTGAGES

Simpson, An Introduction to the History of Land Law 9.3.1
The Dower Act 9.3.3
The Land Titles Act 9.3.6
Re Lesperance 9.3.7
Canada Permanent Trust Co. v. Morrison 9.3.10
Re Smith 9.3.14

Section 4 ELECTION BETWEEN DOWER AND OTHER BENEFITS

(a) Dower and Wills

Re Grant, Abbott v. Grant 9.4.1
Re Lynch Estates 9.4.4

(b) Dower and Intestacy

MacWilliams v. MacWilliams and Ray 9.4.11
Re Case 9.4.16
The Devolution of Estates Act 9.4.18

(c) Dower and the Dependant's Relief Act

Re Casselman 9.4.20

Section 5 DEED TO USES AND DOWER

Re Hazell 9.5.1
Re Morley and Kent 9.5.7
The Registry Act 9.5.9
The Land Titles Act 9.5.10
Gosse, The Registry Act and the Land Titles Act 9.5.11
Problems 9.5.14

Section 6 DOWER AND THE REGISTRY ACT

Recording Acts - An Introduction 9.6.1
Whyte v. Davey 9.6.5
Re Tierney 9.6.7

Section 7 CALCULATION OF DOWER

Re Casselman 9.7.1

Section 8 ALIENATION OF A LIFE ESTATE

Camston v. Volkswagen Yonge Ltd. 9.8.1
The Settled Estates Act 9.8.3
Re Fell 9.8.5

Section 9 PROBLEMS FOR REVIEW

Problems 9.9.1